



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2020-0011]

RIN 1625-AA87

Security Zone; Limetree Bay Terminals, St. Croix, U.S. Virgin Islands

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the name and locating of an existing security zone in St. Croix, U.S. Virgin Islands. This rule adjusts the coordinates of the security zone and updates the facility name from HOVENSA Refinery to Limetree Bay Terminals. The rule continues to prohibit persons and vessels from entering the security zone, unless authorized by the Captain of the Port San Juan or a designated representative. This action is necessary to better meet the safety and security needs of Limetree Bay Terminals in St. Croix, USVI.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2020-0011 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Pedro Mendoza, Sector San Juan Prevention Department, Waterways Management Division, U.S. Coast Guard; telephone 787-729-2374, email Pedro.L.Mendoza@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP	Captain of the Port
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code
USVI	U.S. Virgin Islands

II. Background Information and Regulatory History

On November 21, 2019, the Coast Guard received a request to extend the regulated area of the security zone and update the facility name to Limetree Bay Terminals. The existing regulation in 33 CFR 165.770, contains a fixed security zone around the HOVENSA Refinery on the south coast of St. Croix, USVI. Limetree Bay Terminals recently installed a Single Point Mooring system to enable deep draft vessel traffic to transfer to and from the facility. The location of the Single Point Mooring systems falls outside of the existing security zone. In response, on January 27, 2020, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Security Zone; Limetree Bay Terminals, St. Croix, U.S. Virgin Islands” (85 FR 4619). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this the Limetree Bay Terminals security zone. During the comment period that ended February 26, 2020, we received no comments.

III. Legal Authority and Need for Rule

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters surrounding Limetree Bay Terminals. The Coast Guard is establishing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published January 27, 2020. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule amends the existing fixed security zone in 33 CFR 165.770 to expand the regulated area and to update the facility name. This rule increases the regulated area by approximately 880 yards (.5 mile) to encompass the new mooring system location installed by the facility. We updated the facility name to Limetree Bay Terminals to reflect its current ownership. Vessels may seek permission from the COTP to transit through the security zone.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a

“significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on [provide factual reasons related to the waterway, duration of rule, etc.].

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the security zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves expanding an existing security zone and updating the facility name. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received

without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 165.770 to read as follows:

§ 165.770 Security Zone; Limetree Bay Terminals, St. Croix, U.S. Virgin Islands.

(a) *Regulated area.* The Coast Guard is establishing a security zone in and around

Limetree Bay Terminals on the south coast of St. Croix, U.S. Virgin Islands. This security zone includes all waters from surface to bottom, encompassed by an imaginary line connecting the following points: Point 1 in position 17°41'48" N, 064°44'26" W; Point 2 in position 17°40'00" N, 064°43'36" W; Point 3 in position 17°39'36" N, 064°44'48" W; Point 4 in position 17°41'33" N, 064°45'08" W; then tracing the shoreline along the water's edge to the point of origin. These coordinates are based upon North American Datum 1983 (NAD 1983).

(b) *Regulations.* (1) Under § 165.33, entry into or remaining within the regulated area in paragraph (a) of this section is prohibited unless authorized by the Coast Guard

Captain of the Port San Juan or vessels have a scheduled arrival at Limetree Bay Terminals, St. Croix, in accordance with the Notice of Arrival requirements of 33 CFR part 160, subpart C.

- (2) Persons desiring to transit the area of the security zone may contact the COTP San Juan or designated representative at telephone number 787-289-2041 or on VHF-FM Channel 16. If permission is granted, all persons and vessels must comply with the instructions of the COTP or designated representative.

Dated: March 9, 2020.

E. P. King,
Captain, U.S. Coast Guard,
Captain of the Port San Juan.

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